

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

JAYMEE SCOTT,

Defendant and Appellant.

D061925

(Super. Ct. No. SCD237308)

ORDER MODIFYING OPINION

[NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed hereon on November 6, 2012, be modified as follows:

On page 4, the last sentence of the last paragraph, the name "Gomez" is changed to "Scott" so the sentence reads:

Competent counsel has presented Scott on this appeal.

There is no change in the judgment.

HALLER, Acting P. J.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

JAYMEE SCOTT,

Defendant and Appellant.

D061925

(Super. Ct. No. SCD237308)

APPEAL from a judgment of the Superior Court of San Diego County, Kerry Wells, Judge. Affirmed.

A jury found Jaymee Scott guilty of violating Vehicle Code section 10851, subdivision (a) (unlawful taking or driving a vehicle). The court denied probation, and pursuant to Penal Code section 1170(H)(5)(A) committed her to the custody of the Sheriff for two years, with 296 days of custody credits. The court ordered victim restitution in the amount of \$746.23.

FACTUAL AND PROCEDURAL BACKGROUND

On the afternoon of October 19, 2011, Meshaal Alamr parked his Ford Mustang in a shopping center parking lot in La Jolla and went to lunch at a nearby restaurant. Upon returning to his car, he realized he did not have his key and searched unsuccessfully for it in the restaurant and the area around his car. He left with a friend and returned at about 9:00 p.m. with a locksmith. The locksmith opened the car and Alamr retrieved some personal belongings, but left his registration, sunglasses, GPS device, camera and school papers in the car.

Because the locksmith was not able to make a duplicate key, Alamr left the car in the parking lot. At Alamr's request, a security guard placed a notice on the car so that it would not be towed. When he returned to the parking lot at about 3:00 p.m. the next day, his car was gone. After checking with some towing companies and confirming they did not have his car, Alamr called the police and reported it had been stolen.

On October 28, an employee of a church in Pacific Beach who knew appellant from homeless activities at the church, saw her park the Mustang in the church parking lot. Believing that appellant did not own the car, he reported the license plate number to the police to determine whether the car had been stolen. Later that morning, a San Diego police officer saw appellant driving the Mustang near the church and stopped her to investigate. A second officer who arrived within minutes told her she was suspected of having a stolen car and asked her about this. Scott told him a news company she worked for had "assigned" the car to her, but she was unable to provide details about the name of

her employer or the name, phone number or address of the person who had purportedly "assigned" her the car.

An impound search revealed several items that did not belong to Scott, including Alamr's camera and car key and two identification cards that were not in appellant's name. The owners of the identification cards testified their respective cards had been lost or stolen at a location very near the parking lot where Alamr had parked his car. An employee of a Ralph's grocery store located in the shopping center testified that between late 2010 and late 2011 he had seen appellant in his store at least 40 times.

Appellant, testifying on her own behalf, stated a Ford dealership had given her permission to use the Mustang. On October 18 a valet from a restaurant across the street from the restaurant where Alamr parked his car placed a key in her hand. Without saying anything to him, she took the key, used the remote device on the key to locate the car and drove away. She assumed the Ford dealership had made arrangements to get the car to her as she had been expecting it. She did not see any registration, but did see a GPS device and a camera she thought had been left in the car for her to use.

Prior to trial, appellant made two *Marsden* motions. The first, on November 15, was denied.¹ Criminal proceedings were suspended that same day to assess appellant's mental competency pursuant to Penal Code Section 1368. Six weeks later, the court found appellant was mentally competent to stand trial and the criminal proceedings were

¹ On our own motion, we court augmented the record with the sealed transcript of this hearing as it was not included in the record on appeal.

reinstated. On February 23, 2012, appellant made both a *Marsden* request and a *Farretta* motion. The court relieved appointed counsel and granted the *Farretta* motion after advising appellant of the risks associated with self-representation and accepting a *Lopez* waiver the appellant had executed.

DISCUSSION

Appointed counsel has filed a brief setting forth evidence in the superior court. Counsel presents no argument for reversal, but asks that this court review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel refers to as possible, but not arguable issues: (1) whether sufficient evidence supports the verdict; (2) whether the court abused its discretion in denying probation and sentencing appellant to the middle term of two years in prison; and (3) whether appellant's credits were calculated correctly.

We granted Scott permission to file a brief on her own behalf. She has not responded.

A review of the record pursuant to *People v. Wende, supra*, 25 Cal. 3d 436 and *Anders v. California, supra*, 386 U.S. 738, including the possible issues referred to by appellate counsel, has disclosed no reasonably arguable appellate issues. Competent counsel has presented Gomez on this appeal.

DISPOSITION

The judgment is affirmed.

HALLER, Acting P. J.

WE CONCUR:

McDONALD, J.

IRION, J.